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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------------|
| 10/657,612 | 09/08/2003 | James A. Bolton | GRFT CTNG 1.2 US | 9450 |
| 37138 | 7590 | 12/27/2005 | EXAMINER | |
| THADDIUS J. CARVIS 102 NORTH KING STREET LEESBURG, VA 20176 | | | | PARKER, FREDERICK JOHN |
| | | ART UNIT | | PAPER NUMBER |
| | | 1762 | | |

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|---|--|---------------------|
| Advisory Action Before the Filing of an Appeal Brief | Application No. | Applicant(s) |
| | 10/657,612 | BOLTON ET AL. |
| | Examiner Frederick J. Parker | Art Unit 1762 |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- The period for reply expires _____ months from the mailing date of the final rejection.
- The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

- They raise new issues that would require further consideration and/or search (see NOTE below);
- They raise the issue of new matter (see NOTE below);
- They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. Applicant's reply has overcome the following rejection(s): overcome claim objections only.

6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-3.

Claim(s) withdrawn from consideration: 4-6.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. Other: _____.


Frederick J. Parker
Primary Examiner
Art Unit: 1762

Continuation of 3. NOTE: applicants proposed amendments further narrow the descriptive outcome and therefore change/ narrow the scope of claims, requiring further consideration. There is no reason why such amendments were not previously presented. Applicants proposed amendments and arguments were considered but were not convincing. In particular the statement that Plowman leaves accent color ONLY on embossed low areas and NOT on the surface is in error; this crucial point was addressed in the Final Office Action by the appendix showing that the pigmented coating fills in recesses AND coats raised surfaces analogous to Applicants' outcome. Again as shown in fig. 7 of the reference and accompanying text, while there will be a gradation of material deposited in vallies versus ridges, so too will this be the case in Applicants' method, as is clear from the "spreading" step of claim 1. Issues regarding specific colorations, graining, and other aesthetic effects are obvious variations which would not patentably distinguish over the prior art. Matters related to the choice of ornamentation producing no mechanical effect or advantage considered to constitute the invention are considered obvious and do not impart patentability, In re Seid 73 USPQ 431. The Examiner maintains the prior art rejections .